



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE SERVICES
DEPARTMENT OF LABOR & ECONOMIC GROWTH
DAVID C. HOLLISTER, DIRECTOR

LINDA A. WATTERS
COMMISSIONER

December 17, 2004

Re: Producer Compensation Arrangements

As you may be aware, significant allegations related to “bid rigging,” inappropriate “steering” or other inappropriate solicitation activities engaged in by certain insurance brokers in the placement of business have been raised in recent days as a result of the legal proceedings instituted in the State of New York against one of the industry’s largest brokerage firms. Some of the allegations state or imply that certain insurance carriers may have been involved in or otherwise aware of such activities. The nature of these allegations is of utmost concern to the Office of Financial and Insurance Services (OFIS) as we strive to ensure that a competitive and fair marketplace exists for insurance consumers. Therefore, we are undertaking a review of various aspects of the relationships between insurance companies in Michigan and producers acting as brokers, as we are determined to do everything in our power to assess whether and to what extent these alleged activities may have affected consumers.

The inquiries that follow are addressed under the authority of MCL 500.438(3), which provides: “The commissioner may address inquiries to any insurer, in relation to the insurer’s activities or conditions, on any matter connected with the insurer’s transactions. An insurer so addressed shall promptly reply in writing to each inquiry by the commissioner.” Failure to respond to these inquiries by the date below will subject an insurer to fines and formal proceeding under MCL 500.438(5).

As a part of this undertaking, we are requiring certain Michigan domestic insurance companies, including your company, to assist us in this process by examining closely your arrangements and dealings with producers acting as brokers.

Instructions

If, since January 1, 1998, your company has marketed insurance solely through appointed producers exclusively selling your company’s products, please forward a letter to OFIS attesting to that fact by January 17, 2005. Otherwise, please provide written answers to the following questions by January 17, 2005. Please forward your response, certified by a corporate officer as true and correct, to:

Attention: Compensation Survey Committee
Insurance Licensing and Investigations
Office of Financial and Insurance Services
611 W Ottawa, 3rd Floor
Lansing MI 48933

Your response to this inquiry may be submitted in written format, on compact disc using a Microsoft Word or Excel format, or via email at ofis-licensing@michigan.gov.

The questions below are not limited to conduct or activities in this state, but are intended to include all jurisdictions in which your company does business. The response for Michigan should be labeled "A" and for other states "B", listing the state and then the response.

As used throughout this information request, the term "Inappropriate Solicitation Activities" shall mean any activity whereby an insurance producer:

- (a) requests or obtains any insurance quote, bid or illustration that is: (i) intentionally higher or revised upward or less favorable to the current or prospective client/consumer, than those provided by other insurance companies; (ii) designed or intended not to be selected by a current or prospective client/consumer; (iii) designed or intended to present to the current or prospective client/consumer a false appearance of competition by insurance companies;
- (b) withholds or limits the receipt or presentation of insurance quotes, bids or illustrations in a manner which is contrary to the interests of the current or prospective client/consumer; or
- (c) engages in activity that otherwise may be known as or understood to be "bid-rigging" or inappropriate steering of business which is contrary to the interests of the current or prospective client/consumer.

Questions

Please provide written responses to the following questions. Unless otherwise specified the time period examined should be two (2) years. In responding to all questions, the term "producer(s)" shall include all licensees regardless of whether they have acted under a company appointment, an agreement with a consumer, or both.

1. Provide a detailed explanation of the types of compensation arrangements between your company and producers, from January 1, 1998 to present, including, but not limited to, arrangements covering bonuses, commissions, "contingent commissions", "placement service agreements", "market service agreements," profit sharing arrangements, and/or any other form of compensation, whether contracted for, or not. For each such arrangement, explain what event(s) each component of the compensation was contingent on and whether the producer was acting under a company appointment or

consumer agreement. For each type of arrangement, provide the amount of compensation paid by your company for each year since January 1, 1998.

2. For each of the compensation arrangements identified in Question No. 1 above, identify the producers to whom your company has paid compensation over the past twelve (12) months. Please use an Excel spreadsheet to submit this information.
3. Identify the relationship between your company and any related entities involved in the processing and payment of the compensation discussed in Question No. 1, including the relationship between the producer(s) with whom your company has submitted bids and the producer entity arranging and/or receiving such compensation.
4. Do you have an internal process of reviewing your company's payment arrangements with producers?
5. What specific steps have you taken and what additional steps do you plan to take to investigate your company's practices with respect to compensation or fees paid to producers, including, but not limited to, the payment of bonuses, commissions, "contingent commissions", "placement service agreements", "market service agreements," and/or profit sharing arrangements? If your company has hired any outside investigators, auditors, legal counsel or other consultants in connection with such an investigation, please identify the vendor and describe the scope of the assignment. If no internal process is in place, why not?
6. What specific steps have you taken and what additional steps do you plan to take to investigate whether any of your employees directly or indirectly participated in Inappropriate Solicitation Activities by a producer? If your company has hired any outside investigators, auditors, legal counsel or other consultants in connection with such an investigation, please identify the vendor and describe the scope of the assignment.
7. Have you or any of your employees received any subpoenas, written requests for information or other inquiries from any governmental entity or litigant seeking information related to producer compensation arrangements? Please specify the particulars of all such requests.
8. Have you or any of your employees been a party in any civil lawsuit, or the subject of any other regulatory action or inquiry, alleging use of or involvement with improper producer compensation arrangements or Inappropriate Solicitation Activities? If so, please identify the case caption, jurisdiction, and status for all such litigation and/or other regulatory action or inquiry.
9. Have you or any of your employees been the subject of an investigation or any indictment that may allege or be related to issues involving improper producer compensation arrangements or Inappropriate Solicitation Activities?
10. Has your company at any time been asked by a producer to provide a bid, quote, or illustration under circumstances that may be characterized as Inappropriate Solicitation Activities? If so, please provide details of all such requests.

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11. Has your company been asked by a producer to provide a bid, quote, or illustration under circumstances that may be characterized as Inappropriate Solicitation Activities. If so, please provide details of all such requests.
12. Is your company aware of any specific transactions in which a producer has engaged in activity that might be characterized as Inappropriate Solicitation Activities? If so, please provide details of all such transactions.
13. Is your company aware of any transactions in which a producer has demanded that your company purchase reinsurance or any other insurance product through that producer as a condition for placing coverage with your company?
14. How do your representatives determine whether a bid, quote, or illustration provided to a producer was ever presented to a potential insured entity?
15. Have you reviewed your internal controls relating to your underwriting and new business processes to determine whether Inappropriate Solicitation Activities would have been detected? If not, why? If so, please provide the results of your review.
16. Have you reviewed your policies on ethics and conflicts of interest to determine if they are adequate in light of the current allegations in New York concerning Inappropriate Solicitation Activities? If not, why? If so, please provide the results of your review.
17. What is your company's record retention policy with respect to bids, quotes, and/or illustrations, and any related correspondence, that were provided to or received from producers?

Thank you for your prompt attention to this request for information. Any questions may be directed to OFIS via email at ofis-licensing@michigan.gov.

Sincerely yours,

Linda A. Watters, Commissioner